

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of Application of)	
)	
MOUNTAIN WEST COMMUNICATIONS, INC.)	FCC File No. 0000545572
)	
For Industrial/Business Pool Trunked Station)	
WPNP253, Boise, Idaho)	

ORDER ON RECONSIDERATION

Adopted: June 24, 2002

Released: June 27, 2002

By the Chief, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau:

1. *Introduction.* On January 9, 2002, Mountain West Communications, Inc. (Mountain West) filed a Petition for Reconsideration.¹ Mountain West seeks reconsideration of the December 10, 2001, action of the Public Safety and Private Wireless Division, Licensing and Technical Analysis Branch (Branch) dismissing its modification application² for Industrial/Business Pool Private Land Mobile Radio Station WPNP253, Boise, Idaho. For the reasons set forth below, we deny Mountain West's Petition.

2. *Background.* Section 90.205(g) of the Commission's Rules sets forth the maximum effective radiated power (ERP) permitted for stations in the 450-470 MHz band.³ A station's maximum permissible ERP depends on its antenna height above average terrain and requested service area.⁴ An applicant requesting an ERP in excess of that set forth in Section 90.205(g) must submit an engineering study demonstrating that the requested station parameters will not produce coverage in excess of what the applicant requires,⁵ and that the requested station parameters will not produce a signal strength in excess of 39 dBu at the edge of the requested service area.⁶

3. Mountain West is the licensee of Industrial/Business Pool Trunked Station WPNP253, Boise, Idaho. On July 31, 2001, Mountain West filed the above-captioned application seeking to modify its license to increase its ERP and service radius at four of the station's transmitter sites (namely -- Packer John, Shaffer Butte, No Business Mountain, and Bennett Mountain).⁷ Prior to the proposed modification, the four base stations had authorized ERPs of up to twenty-three watts and thirty-two kilometer service areas.⁸ Mountain West sought to increase the ERP to one hundred watts and expand the service area to

¹ Petition for Reconsideration of Mountain West Communications, Inc. (filed Jan. 9, 2002) (Petition).

² FCC File No. 0000545572.

³ See 47 C.F.R. § 90.205(g).

⁴ *Id.*

⁵ 47 C.F.R. § 90.205(g)(1).

⁶ 47 C.F.R. § 90.205(g)(2).

⁷ Mountain West amended the application on October 4, 2001 and December 4, 2001.

⁸ See License for Station WPNP253.

forty kilometers. Mountain West stated that Station WPNP253 utilizes six transmitter sites in an attempt to provide sufficient coverage, but, due to the mountainous terrain in the Boise area and the spread of Mountain West's customer base, the authorized station parameters left holes in its service area; as a result, it needed the higher ERP to fill in the gaps.⁹ With respect to the Shaffer Butte site, Mountain West explained that the increased ERP was necessary to fill in coverage gaps because, due "to the height of the Shaffer Butte site, it 'overshoots' many of the critical downtown coverage areas."¹⁰

4. On December 7, 2001, the Branch dismissed the application.¹¹ The Branch first noted that Mountain West's requested ERP exceeded the maximum ERP for these transmitters set forth in Section 90.205(g).¹² The Branch then concluded that the application also was defective because Mountain West's engineering study showed that the mobile radius would exceed the requested service area by, depending on the site, six to ten kilometers.¹³ On January 9, 2002, Mountain West filed the Petition regarding the Branch's action.

5. *Discussion.* Mountain West concedes that its engineering study showed that the modified transmitters' 39 dBu contour would exceed the requested service area.¹⁴ It argues, however, that "[a]s explicitly explained in the request, the height of the mountains makes the predicted contour 'overshoot' the actual coverage. Thus, while the predicted contour may appear to exceed 40 km, where the reliable signal contour will actually exist WITHIN that contour will provide effective coverage at about 40 km."¹⁵ Mountain West does not provide any engineering analysis or other proof to substantiate this claim. Moreover, this is in fact the opposite of what Mountain West said in its application, where it stated that the terrain caused the actual coverage to miss areas within the predicted contour, not that the terrain caused the predicted coverage to overstate the actual coverage. Consequently, the Petition does not persuade us that the requested parameters would neither result in coverage beyond what Mountain West requires, nor result in a signal strength in excess of 39 dBu at the requested service radius. Based on the information before us, we therefore agree with the Branch's conclusion that the application did not satisfy the requirements of Section 90.205(g), and affirm the Branch's action dismissing the application as defective.

6. Finally, Mountain West also argues that granting its modification application to permit it to increase its ERP to fill in gaps in its coverage would be consistent with the purpose of Section 90.205, which is to discourage use of transmitter sites that provide more coverage than necessary.¹⁶ This

⁹ Letter, dated January 26, 2001, from Alan Tilles, counsel for Mountain West, to Albert Knerr, Federal Communications Commission.

¹⁰ *Id.* at 2.

¹¹ Automated letter, Ref. No. 1174534, dated December 10, 2001, to Edward D. Flagan, Mountain West.

¹² *Id.*

¹³ *Id.*

¹⁴ Petition at 2. In addition, we conducted our own engineering study based on the R6602 Propagation Model, which demonstrates that the predicted 39 dBu service contours extend beyond 50 km for some azimuthal angles at the Packer John and Shaffer Butte transmitter sites, and beyond 45 km for some azimuthal angles at the No Business Mountain and Bennett Mountain transmitter sites.

¹⁵ *Id.*

¹⁶ *Id.* at 2-3.

argument would be relevant to a request for waiver of Section 90.205,¹⁷ but Mountain West has not requested such a waiver.

7. Accordingly, IT IS ORDERED that, pursuant to Sections 4(i) and 405 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 405, and Section 1.106 of the Commission's Rules, 47 C.F.R. § 1.106, the Petition for Reconsideration filed by Mountain West Communications, Inc. on January 9, 2002 IS DENIED.

8. This action is taken under delegated authority pursuant to Sections 0.131 and 0.331 of the Commission's Rules, 47 C.F.R. §§ 0.131 and 0.331.

FEDERAL COMMUNICATIONS COMMISSION

D'wana R. Terry
Chief, Public Safety and Private Wireless Division
Wireless Telecommunications Bureau

¹⁷ See 47 C.F.R. § 1.925(b)(3)(i).